

Conference Engrossed

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 327

HOUSE BILL 2593

AN ACT

AMENDING SECTIONS 15-1871, 15-1872, 15-1873, 15-1874 AND 15-1875, ARIZONA
REVISED STATUTES; RELATING TO THE FAMILY COLLEGE SAVINGS PROGRAM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-1871, Arizona Revised Statutes, is amended to
3 read:

4 15-1871. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Account" means an individual trust account ~~or savings account~~ IN
7 THE FUND established as prescribed in this article.

8 2. "Account owner" means the person WHO ENTERS INTO A TUITION SAVINGS
9 AGREEMENT PURSUANT TO THIS ARTICLE, WHO IS AN ACCOUNT OWNER WITHIN THE
10 MEANING OF SECTION 529 OF THE INTERNAL REVENUE CODE AND WHO IS designated at
11 the time an account is opened as having the right to withdraw monies from the
12 account before the account is disbursed to or for the benefit of the
13 designated beneficiary.

14 3. "Commission" means the commission for postsecondary education
15 established by section 15-1851.

16 4. "Committee" means the family college savings program oversight
17 committee.

18 5. "Designated beneficiary" MEANS A PERSON WHO QUALIFIES AS A
19 DESIGNATED BENEFICIARY UNDER SECTION 529 OF THE INTERNAL REVENUE CODE AND,
20 except as provided in section 15-1875, subsections R and S, ~~means~~, with
21 respect to an account, ~~the person~~ WHO IS designated at the time the account
22 is opened as the person whose higher education expenses are expected to be
23 paid from the account or, if this designated beneficiary is replaced in
24 accordance with section 15-1875, subsections E, F and G, the replacement
25 beneficiary.

26 6. "Eligible educational institution" means an institution of higher
27 education that qualifies under section 529 of the internal revenue code as
28 an eligible educational institution.

29 7. "Financial institution" means any bank, commercial bank, national
30 bank, savings bank, savings and loan association, credit union, insurance
31 company, brokerage firm or other similar entity that is authorized to do
32 business in this state.

33 8. "FUND" MEANS THE FAMILY COLLEGE SAVINGS PROGRAM TRUST FUND THAT
34 CONSTITUTES A PUBLIC INSTRUMENTALITY OF THIS STATE ESTABLISHED BY SECTION
35 15-1873.

36 ~~8.~~ 9. "Member of the family" means any of the following:

37 (a) A son or daughter of a person or a descendant of the son or
38 daughter of the person.

39 (b) A stepson or stepdaughter of a person.

40 (c) A brother, sister, stepbrother or stepsister of a person. For THE
41 purposes of this subdivision, "brother" and "sister" includes a brother or
42 sister by the half-blood.

43 (d) The father or mother of a person or the ancestor of the father or
44 mother of a person.

45 (e) A stepfather or stepmother of a person.

1 (f) A son or daughter of a person's brother or sister. For THE
2 purposes of this subdivision, "brother" and "sister" includes a brother or
3 sister by the half-blood.

4 (g) A brother or sister of the person's father or mother. For THE
5 purposes of this subdivision, "brother" and "sister" includes a brother or
6 sister by the half-blood.

7 (h) A son-in-law, daughter-in-law, father-in-law, mother-in-law,
8 brother-in-law or sister-in-law of a person.

9 (i) The spouse of a person or the spouse of any individual described
10 in this paragraph.

11 (j) A first cousin of a person.

12 (k) Any individual who meets the criteria for family membership
13 described in this paragraph as a result of legal adoption.

14 ~~9.~~ 10. "Nonqualified withdrawal" means a withdrawal from an account
15 other than one of the following:

16 (a) A qualified withdrawal.

17 (b) A withdrawal made as the result of the death or disability of the
18 designated beneficiary of an account.

19 (c) A withdrawal that is made on the account of a scholarship, or the
20 allowance or payment described in section 135(d)(1)(B) or (C) of the internal
21 revenue code, and that is received by the designated beneficiary, but only
22 to the extent of the amount of this scholarship, allowance or payment.

23 (d) A rollover or change of designated beneficiary.

24 11. "PERSON" MEANS AN INDIVIDUAL, AN INDIVIDUAL'S LEGAL REPRESENTATIVE
25 OR ANY OTHER LEGAL ENTITY AUTHORIZED TO ESTABLISH A SAVINGS ACCOUNT UNDER
26 SECTION 529 OF THE INTERNAL REVENUE CODE AND THE CORRESPONDING REGULATIONS.

27 ~~10.~~ 12. "Program" means the family college savings program established
28 under this article THAT CONSTITUTES A QUALIFIED TUITION PROGRAM AS DEFINED
29 IN SECTION 529 OF THE INTERNAL REVENUE CODE.

30 ~~11.~~ 13. "Qualified higher education expenses" means tuition, fees,
31 books, supplies, room and board and equipment required for enrollment or
32 attendance of a designated beneficiary at an eligible educational institution
33 and expenses for special needs services in the case of a special needs
34 beneficiary that are incurred in connection with enrollment or attendance,
35 IF THESE EXPENSES MEET THE DEFINITION OF QUALIFIED HIGHER EDUCATION EXPENSES
36 IN SECTION 529 OF THE INTERNAL REVENUE CODE.

37 ~~12.~~ 14. "Qualified withdrawal" means a withdrawal from an account to
38 pay the qualified higher education expenses of the designated beneficiary of
39 the account, but only if the withdrawal is made in accordance with this
40 article.

41 15. "SECTION 529 OF THE INTERNAL REVENUE CODE" MEANS SECTION 529 OF THE
42 INTERNAL REVENUE CODE OF 1986, AS AMENDED, AND THE FINAL REGULATIONS ISSUED
43 PURSUANT TO THAT SECTION.

1 16. "TRUST INTEREST" MEANS AN ACCOUNT OWNER'S INTEREST IN THE FUND
2 CREATED BY A TUITION SAVINGS AGREEMENT FOR THE BENEFIT OF A DESIGNATED
3 BENEFICIARY.

4 17. "TUITION SAVINGS AGREEMENT" MEANS AN AGREEMENT BETWEEN THE
5 COMMISSION, AS TRUSTEE OF THE FUND, AND AN ACCOUNT OWNER THAT CREATES AN
6 INTEREST IN THE FUND AND THAT PROVIDES FOR PARTICIPATION IN THE PROGRAM.

7 Sec. 2. Section 15-1872, Arizona Revised Statutes, is amended to read:

8 15-1872. Family college savings program oversight committee;
9 membership; powers and duties

10 A. The family college savings program oversight committee is
11 established in the commission for postsecondary education. The committee
12 consists of the following members:

13 ~~1. The director of the department of insurance or the director's~~
14 ~~designee.~~

15 ~~2. The director of the department of banking or the director's~~
16 ~~designee.~~

17 ~~3.~~ 1. The state treasurer or the state treasurer's designee.

18 ~~4.~~ 2. The director of the securities division of the Arizona
19 corporation commission or the director's designee.

20 ~~5. The president of the Arizona board of regents or the president's~~
21 ~~designee.~~

22 ~~6.~~ 3. The executive director of the state board of directors for
23 community colleges or the executive director's designee.

24 ~~7.~~ 4. The chairperson of the state board for private postsecondary
25 education or the chairperson's designee.

26 ~~8.~~ 5. Three members of the general public, each of whom possesses
27 knowledge, skill and experience in accounting, risk management or investment
28 management or as an actuary. The governor shall appoint these members to
29 serve staggered four year terms pursuant to section 38-211. The initial
30 members appointed pursuant to this paragraph shall assign themselves by lot
31 to serve two, three and four year terms. The chairperson shall notify the
32 governor's office on appointments of these terms. All subsequent members
33 appointed pursuant to this paragraph serve four year terms.

34 6. A CERTIFIED FINANCIAL PLANNER WHO IS APPOINTED BY THE GOVERNOR.

35 7. A CERTIFIED PUBLIC ACCOUNTANT WHO IS APPOINTED BY THE GOVERNOR.

36 8. AN ATTORNEY WITH A STATE BAR OF ARIZONA CERTIFICATION IN ESTATES
37 AND TRUSTS WHO IS APPOINTED BY THE GOVERNOR.

38 B. The commission shall select a chairperson and a vice-chairperson
39 from among the committee's membership. A majority of the membership
40 constitutes a quorum for the transaction of business. The committee shall
41 meet at least once each calendar quarter. The chairperson may call
42 additional meetings.

43 C. Members of the family college savings program oversight committee
44 appointed pursuant to subsection A, paragraph 8 of this section are eligible
45 to receive compensation as determined pursuant to section 38-611 for each day

1 of attendance at committee meetings, except that the compensation of any
2 member shall not exceed five hundred dollars in any year. The commission
3 shall pay compensation pursuant to this subsection from monies of the
4 commission.

5 D. The committee shall recommend financial institutions for approval
6 by the commission to act as the depositories and managers of family college
7 savings accounts pursuant to section 15-1874.

8 E. The committee may submit proposed rules to the commission to assist
9 in the implementation and administration of this article.

10 F. Members of the committee are immune from personal liability with
11 respect to all actions that are taken in good faith and within the scope of
12 the committee's authority.

13 Sec. 3. Section 15-1873, Arizona Revised Statutes, is amended to read:

14 15-1873. Commission for postsecondary education; family college
15 savings program; powers and duties; family college
16 savings program trust fund

17 A. The commission shall:

18 1. Develop and implement the program in a manner consistent with this
19 article through the adoption of rules, guidelines and procedures.

20 2. Retain professional services, if necessary, including
21 accountants, auditors, consultants and other experts.

22 3. Seek rulings and other guidance from the United States department
23 of the treasury and the internal revenue service relating to the program.

24 4. Make changes to the program required for the participants in the
25 program to obtain the federal income tax benefits or treatment provided by
26 section 529 of the internal revenue code of 1986.

27 5. Interpret, in rules, policies, guidelines and procedures, the
28 provisions of this article broadly in light of its purpose and objectives.

29 6. Charge, impose and collect administrative fees and service charges
30 in connection with any agreement, contract or transaction relating to the
31 program.

32 7. NEGOTIATE AND select the financial institution or institutions to
33 act as the depository and manager of the program in accordance with this
34 article.

35 8. AS AN AGENCY OF THIS STATE, ACT AS TRUSTEE OF THE FUND.

36 9. MAINTAIN THE PROGRAM ON BEHALF OF THIS STATE AS REQUIRED BY SECTION
37 529 OF THE INTERNAL REVENUE CODE.

38 10. ENTER INTO TUITION SAVINGS AGREEMENTS WITH ACCOUNT OWNERS PURSUANT
39 TO THIS ARTICLE.

40 B. THE FAMILY COLLEGE SAVINGS PROGRAM TRUST FUND IS ESTABLISHED
41 CONSISTING OF THE ASSETS OF THE FAMILY COLLEGE SAVINGS PROGRAM. THE
42 COMMISSION SHALL ADMINISTER THE FUND AND SHALL ACT AS THE SOLE TRUSTEE OF THE
43 FUND. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED. THE FUND IS
44 DESIGNATED A PUBLIC INSTRUMENTALITY OF THIS STATE THAT IS CREATED FOR AN
45 ESSENTIAL PUBLIC PURPOSE. TRUST INTERESTS IN THE FUND SHALL BE DESIGNATED

1 BY THE COMMISSION FOR EACH ACCOUNT OWNER. THE FUND SHALL BE SEPARATED INTO
2 A TRUST ACCOUNT AND AN OPERATING ACCOUNT. THE TRUST ACCOUNT SHALL INCLUDE
3 AMOUNTS RECEIVED BY THE FAMILY COLLEGE SAVINGS PROGRAM FROM ACCOUNT OWNERS
4 PURSUANT TO TUITION SAVINGS AGREEMENTS AND INTEREST AND INVESTMENT INCOME
5 EARNED BY THE FUND. THE COMMISSION SHALL MAKE TRANSFERS FROM THE TRUST
6 ACCOUNT TO THE OPERATING ACCOUNT AS NECESSARY FOR THE IMMEDIATE PAYMENT OF
7 OBLIGATIONS UNDER TUITION SAVINGS AGREEMENTS, OPERATING EXPENSES AND
8 ADMINISTRATIVE COSTS OF THE FAMILY COLLEGE SAVINGS PROGRAM. THE COMMISSION
9 SHALL DEPOSIT AND INVEST MONIES OR OTHER AMOUNTS IN THE FUND WITH FINANCIAL
10 INSTITUTIONS IN ACCORDANCE WITH SECTION 15-1874.

11 Sec. 4. Section 15-1874, Arizona Revised Statutes, is amended to read:
12 15-1874. Use of contractor as account depository and manager

13 A. The commission shall implement the OPERATION OF THE program through
14 the use of one or more financial institutions to act as the depositories OF
15 THE FUND and managers OF THE PROGRAM. Under the program, persons may SUBMIT
16 APPLICATIONS FOR ENROLLMENT IN THE PROGRAM AND establish accounts through the
17 program IN THE FUND at the depository FINANCIAL INSTITUTION. MONIES PAID BY
18 ACCOUNT OWNERS TO THE FUND FOR DEPOSIT IN ACCOUNTS MAINTAINED BY THE FUND AT
19 A FINANCIAL INSTITUTION SHALL BE PAID TO THE FINANCIAL INSTITUTION AS AN
20 AGENT OF THE FUND AND THE TUITION SAVINGS AGREEMENTS SHALL PROVIDE THAT ALL
21 MONIES PAID BY ACCOUNT OWNERS TO FUND ACCOUNTS HELD AT FINANCIAL INSTITUTIONS
22 ARE BEING PAID TO THE FUND.

23 B. The committee shall solicit proposals from financial institutions
24 to act as the depositories OF FUND MONIES and managers of the program.
25 Financial institutions that submit proposals must describe the financial
26 instruments that will be held in accounts. THE COMMISSION SHALL SELECT
27 PROPOSALS FROM FINANCIAL INSTITUTIONS TO ACT AS DEPOSITORIES AND MANAGERS AND
28 THAT THE SOLICITATION AND SELECTION PROCESS IS EXEMPT FROM THE PROCUREMENT
29 CODE REQUIREMENTS OF TITLE 41, CHAPTER 23.

30 C. On the recommendation of the committee, the commission shall select
31 ~~as program depositories and managers~~ the financial institution or
32 institutions TO IMPLEMENT THE OPERATION OF THE PROGRAM from among bidding
33 financial institutions that demonstrate the most advantageous combination,
34 both to potential program participants and this state, of the following
35 factors:

- 36 1. Financial stability and integrity.
- 37 2. The safety of the investment instruments being offered, taking into
38 account any insurance provided with respect to these instruments.
- 39 3. The ability of the investment instruments to track estimated costs
40 of higher education as calculated by the commission and provided by the
41 financial institution to the account holder.
- 42 4. The ability of the financial institutions, directly or through a
43 subcontract, to satisfy record keeping and reporting requirements.
- 44 5. The financial institution's plan for promoting the program and the
45 investment it is willing to make to promote the program.

1 6. The fees, if any, proposed to be charged to persons for maintaining
2 accounts.

3 7. The minimum initial deposit and minimum contributions that the
4 financial institution will require FOR THE INVESTMENT OF FUND MONIES and the
5 willingness of the financial institution to accept contributions through
6 payroll deduction plans and other deposit plans.

7 8. Any other benefits to this state or its residents included in the
8 proposal, including an account opening fee payable to the commission by the
9 account owner and an additional fee from the financial institution for
10 statewide program marketing by the commission.

11 D. The commission shall enter into a contract with a financial
12 institution, or except as provided in subsection E of this section, contracts
13 with financial institutions, to serve as program managers and depositories.
14 PROGRAM MANAGEMENT CONTRACTS SHALL PROVIDE THE TERMS AND CONDITIONS BY WHICH
15 FINANCIAL INSTITUTIONS SHALL SELL INTERESTS IN THE FUND TO ACCOUNT OWNERS,
16 INVEST MONIES IN THE FUND AND MANAGE THE PROGRAM.

17 E. The commission may select more than one financial institution and
18 investment for the program if both of the following conditions exist:

19 1. The United States internal revenue service has provided guidance
20 that giving a contributor a choice of two investment instruments under a
21 state plan will not cause the plan to fail to qualify for favorable tax
22 treatment under section 529 of the internal revenue code.

23 2. The commission concludes that the choice of instrument vehicles is
24 in the best interest of college savers and will not interfere with the
25 promotion of the program.

26 F. A program manager shall:

27 1. Take all action required to keep the program in compliance with the
28 requirements of this article and all action not contrary to this article or
29 its contract to manage the program so that it is treated as a qualified state
30 tuition plan under section 529 of the internal revenue code.

31 2. Keep adequate records of each account OF THE FUND'S ACCOUNTS, keep
32 each account segregated from each other account and provide the commission
33 with the information necessary to prepare statements required by section
34 15-1875, subsections O, P and Q or file these statements on behalf of the
35 commission.

36 3. Compile and total information contained in statements required to
37 be prepared under section 15-1875, subsections O, P and Q and provide these
38 compilations to the commission.

39 4. If there is more than one program manager, provide the commission
40 with this information to assist the commission to determine compliance with
41 section 15-1875, subsection N.

42 5. Provide representatives of the commission, including other
43 contractors or other state agencies, access to the books and records of the
44 program manager to the extent needed to determine compliance with the
45 contract.

1 6. Hold all accounts in trust THE NAME OF AND for the benefit of THE
2 FUND AND this state and the account owner.

3 G. Any contract executed between the commission and a financial
4 institution pursuant to this section shall be for a term of at least three
5 years and not more than seven years.

6 ~~H. If a contract executed between the commission and a financial~~
7 ~~institution pursuant to this section is not renewed, all of the following~~
8 ~~conditions apply at the end of the term of the nonrenewed contract:~~

9 ~~1. Accounts previously established and held in investment instruments~~
10 ~~at the financial institution shall not be terminated.~~

11 ~~2. Additional contributions may be made to the accounts.~~

12 ~~3. No new accounts may be placed with that financial institution.~~

13 1. H. The commission may terminate a contract with a financial
14 institution at any time for good cause on the recommendation of the
15 committee. If a contract is terminated pursuant to this subsection, the
16 commission shall take custody of accounts held at that financial
17 institution and shall seek to promptly transfer the accounts to another
18 financial institution that is selected as a program manager and into
19 investment instruments as similar to the original investments as possible.

20 1. IF THE COMMISSION DETERMINES NOT TO RENEW THE APPOINTMENT OF A
21 FINANCIAL INSTITUTION AS A PROGRAM MANAGER, THE COMMISSION MAY TAKE ACTION
22 CONSISTENT WITH THE INTERESTS OF THE PROGRAM AND THE ACCOUNTS AND IN
23 ACCORDANCE WITH ITS DUTIES AS THE TRUSTEE OF THE FUND, INCLUDING TERMINATION
24 OF ALL SERVICES OR CONTINUATION OF CERTAIN MANAGEMENT AND ADMINISTRATIVE
25 SERVICES OF THAT FINANCIAL INSTITUTION FOR ACCOUNTS OF THE PROGRAM MANAGED
26 BY THAT FINANCIAL INSTITUTION DURING ITS TERM AS A PROGRAM MANAGER, IF ANY
27 CONTINUATION OF SERVICES IS ONLY PERMITTED UNDER THE FOLLOWING CONDITIONS:

28 1. THE COMMISSION AND THE FINANCIAL INSTITUTION ENTERS INTO A WRITTEN
29 AGREEMENT SPECIFYING THE RIGHTS OF THE PROGRAM AND THE COMMISSION AND THE
30 RESPONSIBILITIES OF THE FINANCIAL INSTITUTION, INCLUDING THE STANDARDS THAT
31 CONTINUE TO BE APPLICABLE TO THE ACCOUNTS AS ACCOUNTS OF THE PROGRAM.

32 2. ANY SERVICES PROVIDED BY THE FINANCIAL INSTITUTION TO ACCOUNTS
33 CONTINUE TO BE SUBJECT TO THE CONTROL OF THE COMMISSION AS THE TRUSTEE OF THE
34 FUND WITH RESPONSIBILITY OF ALL ACCOUNTS OF THE PROGRAM.

35 Sec. 5. Section 15-1875, Arizona Revised Statutes, is amended to read:
36 15-1875. Program requirements

37 A. The program shall be operated through the use of accounts IN THE
38 FUND ESTABLISHED BY ACCOUNT OWNERS. PAYMENTS TO THE FUND FOR PARTICIPATION
39 IN THE PROGRAM SHALL BE MADE BY ACCOUNT OWNERS PURSUANT TO TUITION SAVINGS
40 AGREEMENTS. An account may be opened by any person who desires to INVEST IN
41 THE FUND AND TO save to pay the qualified higher education expenses of a
42 person by satisfying each of the following requirements:

43 1. Completing an application in the form prescribed by the
44 commission. The application shall include the following information:

1 (a) The name, address and social security number or employer
2 identification number of the contributor.

3 (b) The name, address and social security number of the account owner
4 if the account owner is not the contributor.

5 (c) The name, address and social security number of the designated
6 beneficiary.

7 (d) The certification relating to no excess contributions required by
8 subsection N.

9 (e) Any other information that the commission may require.

10 2. Paying the one-time application fee established by the commission.

11 3. Making the minimum contribution required by the commission or by
12 opening an account.

13 4. Designating the type of account to be opened if more than one type
14 of account is offered.

15 B. Any person may make contributions to an account after the account
16 is opened.

17 C. Contributions to accounts may be made only in cash.

18 D. Account owners may withdraw all or part of the balance from an
19 account on sixty days' notice, or a shorter period as may be authorized by
20 the commission, under rules prescribed by the commission. These rules shall
21 include provisions that will generally enable the commission or program
22 manager to determine if a withdrawal is a nonqualified withdrawal or a
23 qualified withdrawal. The rules may, but need not, require one or more of
24 the following:

25 1. Account owners seeking to make a qualified withdrawal or other
26 withdrawal that is not a nonqualified withdrawal shall provide
27 certifications, copies of bills for qualified higher education expenses or
28 other supporting material.

29 2. Qualified withdrawals from an account shall be made only by a check
30 payable as designated by the account owner.

31 3. Withdrawals not meeting certain requirements shall be treated as
32 nonqualified withdrawals by the program manager, and if these withdrawals are
33 not nonqualified withdrawals, the account owner must seek refunds of
34 penalties, if any, directly from the commission.

35 E. An account owner may change the designated beneficiary of an
36 account to an individual who is a member of the family of the former
37 designated beneficiary in accordance with procedures established by the
38 commission.

39 F. On the direction of an account owner, all or a portion of an
40 account may be transferred to another account of which the designated
41 beneficiary is a member of the family of the designated beneficiary of the
42 transferee account.

43 G. Changes in designated beneficiaries and rollovers under this
44 section are not permitted if the changes or rollovers would violate either
45 of the following:

1 1. Subsection N, relating to excess contributions.

2 2. Subsection K, relating to investment choice.

3 H. In the case of any nonqualified withdrawal from an account, a
4 penalty may be imposed if the penalty is required for purposes of qualifying
5 the program as a qualified tuition program under section 529 of the internal
6 revenue code. The commission may adopt rules to establish the parameters for
7 the assessment of penalties. Any penalties assessed shall be paid to the
8 commission for use in operating and marketing the program and for student
9 financial aid.

10 I. Each account shall be maintained separately from each other account
11 under the program.

12 J. Separate records and accounting shall be maintained for each
13 account for each designated beneficiary.

14 K. No contributor to, account owner of or designated beneficiary of
15 any account may direct the investment, within the meaning of section 529 of
16 the internal revenue code, of any contributions to an account or the earnings
17 from the account.

18 L. If the commission terminates the authority of a financial
19 institution to hold accounts and accounts must be moved from that financial
20 institution to another financial institution, the commission shall select the
21 financial institution and type of investment to which the balance of the
22 account is moved unless the internal revenue service provides guidance
23 stating that allowing the account owner to select among several financial
24 institutions that are then contractors would not cause a plan to cease to be
25 a qualified tuition plan.

26 M. Neither an account owner nor a designated beneficiary may use an
27 interest in an account as security for a loan. Any pledge of an interest in
28 an account is of no force and effect.

29 N. On the recommendation of the committee, the commission shall adopt
30 rules to prevent contributions on behalf of a designated beneficiary in
31 excess of those necessary to pay the qualified higher education expenses of
32 the designated beneficiaries. The rules shall address the following:

33 1. Procedures for aggregating the total balances of multiple accounts
34 established for a designated beneficiary.

35 2. The establishment of a maximum total balance for the purpose of
36 prohibiting contributions to accounts established for a designated
37 beneficiary if the contributions would cause the maximum total balance to be
38 exceeded.

39 3. The commission shall review the quarterly reports received from
40 participating financial institutions and certify that the balance in all
41 qualified tuition programs, as defined in section 529 of the internal revenue
42 code, of which that person is the designated beneficiary does not exceed the
43 lesser of:

44 (a) A maximum college savings amount established by the commission
45 from time to time.

1 (b) The cost in current dollars of qualified higher education expenses
2 that the contributor reasonably anticipates the designated beneficiary will
3 incur.

4 4. Requirements that any excess contributions with respect to a
5 designated beneficiary be promptly withdrawn in a nonqualified withdrawal or
6 rolled over to another account in accordance with this section.

7 0. If there is any distribution from an account to any person or for
8 the benefit of any person during a calendar year, the distribution shall be
9 reported to the internal revenue service and the account owner or the
10 designated beneficiary to the extent required by federal law.

11 P. The financial institution shall provide statements to each account
12 owner at least once each year within thirty-one days after the twelve month
13 period to which they relate. The statement shall identify the contributions
14 made during a preceding twelve month period, the total contributions made
15 through the end of the period, the value of the account as of the end of this
16 period, distributions made during this period and any other matters that the
17 commission requires be reported to the account owner.

18 Q. Statements and information returns relating to accounts shall be
19 prepared and filed to the extent required by federal or state tax law.

20 R. A state or local government or organizations described in section
21 501(c)(3) of the internal revenue code may open and become the account owner
22 of an account to fund scholarships for persons whose identity will be
23 determined after an account is opened.

24 S. In the case of any account described in subsection R, the
25 requirement that a designated beneficiary be designated when an account is
26 opened does not apply and each person who receives an interest in the account
27 as a scholarship shall be treated as a designated beneficiary with respect
28 to the interest.

29 T. Any social security numbers, addresses or telephone numbers of
30 individual account holders and designated beneficiaries that come into the
31 possession of the commission are confidential, are not public records and
32 shall not be released by the commission.

33 U. AN ACCOUNT OWNER MAY TRANSFER OWNERSHIP RIGHTS TO ANOTHER ELIGIBLE
34 ACCOUNT OWNER.

35 V. AN ACCOUNT OWNER MAY DESIGNATE SUCCESSOR ACCOUNT OWNERS.

APPROVED BY THE GOVERNOR JUNE 3, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 3, 2004.

Passed the House March 15, 2004

Passed the Senate May 6, 2004

by the following vote: 57 Ayes,

by the following vote: 29 Ayes,

0 Nays, 3 Not Voting

0 Nays, 1 Not Voting

Jake Flake
Speaker of the House

Ken Bennett
President of the Senate

Gorman L. Moore
Chief Clerk of the House

Channing Bellington
Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR**

This Bill was received by the Governor this

_____ day of _____, 20____

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____

at _____ o'clock _____ M.

Governor of Arizona

H.B. 2593

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State

this _____ day of _____, 20____

at _____ o'clock _____ M.

Secretary of State

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House May 24, 2004,

by the following vote: 56 Ayes,

1 Nays, 3 Not Voting

Jake Flake
Speaker of the House

Spencer L. Fyore
Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate May 26, 2004,

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

Ken Blumenthal
President of the Senate

Charmine Bellinford
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor

this 27th day of May, 2004,

at 8:35 o'clock a. M.

Wendy Ibarra
Secretary to the Governor

Approved this 3 day of

June, 2004,

at 3:45 o'clock P. M.

Jan Brewer
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 3 day of June, 2004,

at 4:22 o'clock P. M.

Janice L. Brewer
Secretary of State

H.B. 2593